Draft

San Joaquin County Pesticide Enforcement Work Plan
2006/2007

Planning and Evaluation Cycle

Pursuant to 3CCR section 6394 "Performance Evaluation", the California Department of Pesticide Regulation (CDPR) Director shall evaluate each county pesticide use enforcement program at least every three years. Due to the size and complexity of San Joaquin County's pesticide use enforcement program, it is agreed upon between CDPR and San Joaquin County that evaluations shall take place on an annual fiscal year basis.

Pesticide Use Enforcement Personnel Resources

Three Deputy Agricultural Commissioners provide supervision for the county's pesticide use enforcement program. San Joaquin County is divided into 10 geographic districts within which Biologists are assigned to perform work in two major departmental program areas: phytosanitary export certification and pesticide use enforcement. Additionally, they perform work in several other minor non-pesticide related departmental programs. Ten District Biologists are primarily responsible for agricultural production pesticide use enforcement. These ten Biologists are assigned to one of four offices: Lodi (3-Biologists), Stockton (3-Biologists), Simms Station (3-Biologists), and Tracy (1-Biologist). One Biologist, designated the Urban Biologist and assigned to the Stockton office, supports the Pesticide Use Enforcement (PUE) Program Deputy on special projects and is responsible for non-farm pesticide use enforcement including: structural, industrial, institutional, home and residential.

<u>At full staffing levels the following personnel dedicate time to San Joaquin County's pesticide use enforcement program.</u>

11 – Senior Agricultural Biologist, Agricultural Biologist I, or Agricultural Biologist II employees licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring. On average these Biologists spend 67% of their time (15,000 hours) in pesticide use enforcement.

1 – Deputy Agricultural Commissioner, licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring, responsible for supervising four Biologists and overall pesticide use enforcement program performance. This PUE Deputy spends 75% of his time (1500 hours) in pesticide use enforcement.

2 – Deputy Agricultural Commissioners licensed by the Department of Food and Agriculture in Pesticide Use Regulation and Investigation and Environmental Monitoring, responsible for supervising the remaining 7 Biologists and assigned departmental program responsibility in non-pesticide related areas. On average these Deputies spend 24% of their time (2,400 hours) on pesticide use enforcement.

Support for the above licensed pesticide activities is provided by: 1 – System Analyst providing computer support, 1 – Geographic Information System (GIS) Technician providing maintenance of an agricultural field border project integral to our permit process, 1 – Office Assistant Specialist providing full-time clerical pesticide program support, and 7 – Office Assistants providing additional part-time clerical pesticide program support.

Staffing Level & Program Impacts for FY 06/07

18 biologists provide full staffing for all agricultural programs within San Joaquin County. Currently, 4 biologist vacancies exist within the department. Two of these vacancies are District Biologists. We expect these vacancies to be filled by 1/2007. It is likely that biologists given these two district assignments will be relatively inexperienced in pesticide use enforcement. Goals projected for this fiscal year reflect full staffing with experienced biologists. Some shortfalls may occur in the number of monitoring inspections conducted as biologists new to pesticide use enforcement gain experience.

Staffing Level

GIS Technician position: vacant since 11/2004. This position was budgeted for FY 05/06 and filled 12/27/2005. As a result, a 2005 GIS field border project was not developed. Once this position was filled, the GIS Technician focused on and completed a GIS field border project for use with the 2006 permit calendar year. Our development of a 2007 GIS field border project is expected to be a smooth transition for our GIS technician.

Agricultural Biologists by office:

Lodi (3-Biologists) –a fully licensed Agricultural Biologist II in her second year (since June 2005) performing pesticide related duties. A 20-year veteran Senior Agricultural Biologist anchors this office providing onsite guidance. A second Senior Agricultural Biologist, assigned to the Lodi office 11/2003, with 30 months pesticide enforcement experience keeps this office at full staffing levels for the upcoming 06/07 fiscal year.

Simms Station (3-Biologists) – fully staffed for FY 05/06. For most of the first half of FY 06/07 two biologists staffed this office. A veteran Senior Agricultural Biologist with 8 years pesticide enforcement experience was reassigned to the Tracy office to fill a retirement vacancy created 8/2006 and currently splits his time between Simms and Tracy. A second biologist assigned to Simms during the 04/05 fiscal year has 30 months pesticide enforcement experience. The third biologist with 5 years experience worked through 11/2006 and left our department for Mendocino County. A fully licensed Biologist II, new to District pesticide use enforcement, is assigned to this office 12/2006. Our permit issuance season starting in December presents challenges at the current 2-1/2 biologist staffing level. Full staffing is expected sometime after 1/2007.

Tracy (1-Biologist) – staffed by a single 9-year veteran Senior Agricultural Biologist who retired 8/2006 and was replaced with Simms Station's 9-year veteran Senior Agricultural Biologist. This biologist is splitting his time between Simms Station and Tracy until Simms can be brought to full staffing some time after 1/2007.

Stockton (4-Biologists: 3 District and 1 Urban) – fully staffed for the 06/07 fiscal year. Last year's district biologist reassignments have two fully licensed Agricultural Biologists (1- Sr. Agricultural Biologist and 1 – Biologist II), each now with a years experience in pesticide use enforcement, in this unit. Our third district biologist, a 37-year veteran, remains in this unit providing enforcement guidance. As well, the Deputy Agricultural Commissioner responsible for the county's pesticide enforcement program directly supervises this unit. The Urban Biologist duties were also reassigned in 05/06 to a Senior Agricultural Biologist with 4 years of agricultural pesticide enforcement experience who performs the Urban Biologist duties. Implementation of the newly (August 2005) adopted Enforcement Response Policy placed added Notice of Proposed Action preparation responsibility to this position.

Program Impacts

FY 06/07: Staff levels for licensed staff are below normal for the 06/07 fiscal year. Our southern division consisting of the Tracy and Simms Station offices (normally staffed by 4 biologists) are impacted by an August 2006 retirement and November 2006 resignation. One position is filled as of December 2006 and the second position may be filled in January 2007. Additionally, 3 district assigned Biologists (two Stockton and one Lodi) are gaining their second year's experience with pesticide enforcement activities. Biologists newly assigned to district responsibilities typically take three years to become expert in their pesticide activities. A large part of this time is used to gain an intimate knowledge (e.g. cropping patterns, pest management, sensitive environmental conditions, permittees, etc.) of their locally assigned geographic area. As a result it is expected that the number of field inspections conducted will continue to be lower than what would be accomplished by a totally veteran staff.

Our single clerical support position for the Simms Station office is staffed halftime for the first half of the fiscal year. This has an additional impact on fieldwork conducted by district biologists who at times must provide office coverage.

A. Restricted Materials Permitting

Permit Evaluation-Process Evaluation and Improvement Planning

Permit-Evaluation

Currently, 1914 restricted material permits and 244 operator identification numbers (OINs) are active in San Joaquin County. 1181 and 733 of the restricted permits are multi-year and annual permits, respectively. As of June 30, 2006, 1024 permits and 181 OINs were issued or renewed in calendar year 2006. Permits and OINs are generated using a custom software application called RMMS (Restricted Materials Management System).

New for permits issued starting in 2007, a certification statement appears on the front page of the permit. The certification statement assures that permit applicants comply with 3CCR section 6426 as outlined in CDPR's Restricted Materials and Permitting Compendium Volume III. This code section requires that permit applicants consider mitigation measures and/or alternatives to lessen substantial adverse environmental impacts and when feasible adopt them.

Restricted material permit sites are evaluated prior to issuance of the permit based on review of adjacent and surrounding properties noted on applicant submitted maps, discussion with the applicant, and staff's extensive local field knowledge. GIS maps are used to help evaluate the surrounding environment. These maps utilize aerial photography with section, township and range information to accurately locate permittee sites. Grower-provided maps are still used to help establish their sites on the aerial maps. Residential areas, schools, churches, waterway, parks, and other sensitive areas are noted on permit maps to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Feasible alternatives to restricted pesticides are considered and implemented when appropriate.

When it is determined that a substantial adverse environmental impact is likely to occur from the use of a restricted material, staff evaluate potential mitigation measures, based on the local conditions, and include them as a permit condition. The county has standard permit conditions that all permits are conditioned with as appropriate. The county also follows DPR's recommended permit conditions (e.g., methyl bromide, 1,3-dichloropropene, metam sodium and rice pesticides) when appropriate and uses information from previous year pest control evaluations and investigations to issue additional, more specific permit conditions. For example, if an applicant wishes to use a restricted material that has a potential health impact near a school, residential area or public area, staff conditions the permit so that the material may only be used when the school is not in session, or so that the material can only be used by ground application equipment.

The county denies permits or notices of intents (NOIs) when there are feasible alternatives to reduce adverse environmental impacts. Permits are also denied because of a lack of certification of the applicant. NOIs are denied when adjacent sensitive areas are not identified in the permit or NOI, or a valid permit is not in effect for the use. When a permit is denied, staff fills out a paper permit form and marks "denied." NOIs are noted as denied on the NOI form.

All staff that issue restricted materials permits are designated as a Senior Agricultural Biologist or an Agricultural Biologist II and possess current licenses in Pesticide Regulation and Investigation and Environmental Monitoring issued by the California Department of Food and Agriculture. Enforcement staff are knowledgeable in the application of pesticide laws and regulations. Biologist's experience ranges from one to thirty-seven years in pesticide use enforcement activities.

Staff determines a permit applicant is qualified to hold an agricultural use restricted materials permit by verifying that he or she has a private applicator certificate, qualified applicator

certificate or qualified applicator license that is valid for the time period for which the permit is to be issued. Then the staff verifies that the applicant is the property operator or employee of the property operator. Qualified applicants are listed on the permit's contact page that shows all certified parties associated with a permit including their certification type, number, and expiration date. Staff issued 19 non-agricultural permits that were signed by the property operator or the pest control business. Staff issues permits valid for one year, expiring at the end of the calendar year (December 31) in which they are issued, except for perennial agricultural plantings, nonproduction agricultural sites, or nonagricultural sites. For such permits with non-changing sites, the county issues permits for up to three years, depending on how long the certification of the applicant is valid. These procedures are consistent and in compliance with FAC section 14007, 3 CCR sections 6416-6432, and the Restricted Materials Permit Manual.

Maps showing permittee field locations are generated using our GIS Field Border project maintained in ArcView 3.2. This project began in 2001. Use of this program greatly enhanced the accuracy of our maps and helps ensure appropriate sensitive areas are noted and identifiable. Rehiring a GIS Technician was critical to ensuring continued high quality maps for attachment to our permits.

Goal or Objective

Continue to review and improve the business processes associated with the evaluation of restricted materials permit applications ensuring the protection of San Joaquin County residents and their environment while allowing for timely and effective pest control.

Deliverables

Explain and identify tasks or activities to implement planned improvements:

- Schedule staff to attend CDPR workshops on the newly developed Restricted Materials and Permitting Compendium Volume III;
- Query the RMMS permit database in November and provide each biologist with a list of expiring permits with applicant certification status;
- Query our Access Private Applicator Certification (PAC) database in December for renewed PAC holders for use in permit issuance;
- Experienced staff works with any new district biologists during November and December as permits are edited for issuance in the 2007 calendar year;
- Review issued permits for completeness and accuracy prior to filing.

Measure Success

The county will query the RMMS permit database generating data showing the types of permits issued, permit applicant certification type, and certification expiration date. Any problems noted will be returned to biologists for review. Mismarked and incorrect information will be updated to create accurate permit records. In the event permit applicants are not appropriately certified, permit holders will be notified and given the opportunity to comply. If they cannot comply their permit will be revoked and an OIN issued.

Site-Monitoring Plan

Site-Monitoring Plan Development

The county's selection criteria for monitoring notices of intent (NOIs) to apply restricted pesticides is based on choosing proposed applications of materials with the greatest environmental concerns, considering potential for drift and likelihood of human health effects or crop damage, for pre-application site inspection. NOIs are submitted by phone, recorder, fax, or via a Web-Based NOI site. For verbally submitted NOIs, the required information is filled in on the NOI form. Once in written format, the NOIs are distributed to the biologist responsible for the district in which the application is to occur. Biologists review the NOIs for completeness and will contact the submitter if one is incomplete. After review, Biologists mark NOIs as approved or denied and initial. 57 NOIs were denied during FY05/06. Copies of the NOIs are filed in the grower's permit file folder. Biologists screen incoming NOIs and select appropriate NOIs to monitor based on their knowledge of environmentally sensitive sites (e.g. residential areas, industrial areas, schools, waterways, sensitive adjacent crops, etc.) located within their districts and the type of pesticide proposed for application. The county is committed to meeting our mandate to monitor 5% of all NOIs received. Fumigants are a high priority. All methyl bromide field applications covered by CDPR's suggested field soil permit conditions and 3 CCR sections 6450 – 6450.3 are monitored. Most other fumigants (e.g. potassium sodium, metam sodium, and 1,3-dichloropropene) are monitored at a higher than 5% rate, especially those near known sensitive areas.

The county received 6568 NOIs to apply pesticides in FY05/06 and evaluated 381 of them with a pre-application site inspection. This constitutes 5.8 percent of the NOIs received. This is greater than the 5 percent required by 3 CCR section 6436. In general, staff is responsible for conducting one pre-site application inspection for every twenty NOIs submitted in their district.

Strengths and Weaknesses

District staff knowledge is our main strength in implementing an effective site-monitoring plan. Eight of our current district biologists are well trained and knowledgeable in: departmental guidelines and priorities for selecting NOIs for site monitoring, pesticide hazards, local conditions (e.g. location of sensitive areas), cropping and fieldwork patterns, and compliance histories for handlers, permittees and advisors. Supporting identification of adjacent hazards to proposed applications is our ArcView Field Border Project that identifies adjacent crops and most importantly provides recent aerial imagery that helps identify adjacent sensitive areas such as residential areas and waterways.

An apparent weakness for implementing an effective site-monitoring plan is associated with a newly assigned (12/2007) district biologist in the Simms Station office. This apparent weakness is offset by the fact that two knowledgeable biologists and a supervisor provide excellent support in training this biologist. Additionally, our ArcView project is an exceptional tool for identifying adjacent sensitive areas to proposed restricted material applications.

Another weakness in our current site-monitoring efforts and the development of an effective site-monitoring plan is our inability to measure our success in targeting and prioritizing specific pesticides or sites for monitoring. Currently, we can account for the total number of NOIs received and the number of pre-application monitoring inspections conducted through hand counts. These simple counts provide for measuring achievement of our mandatory 5% NOI monitoring level both countywide and by individual biologist. However, more complex information is needed to analyze our success in targeting specific high priority pesticides. Specifically, a computerized system for collecting additional NOI and pre-application monitoring information is needed. The system or systems would have to collect information on the number of NOIs received by pesticide as well as what pesticides were monitored during pre-application inspection. Extensive resource commitment is required to develop and maintain or purchase such a software database or databases. Additionally, new business processes would need to be developed to route NOIs to a data entry operator and still maintain paper NOIs in grower permit files. Dedication of clerical staff to a new data entry task is also a significant resource commitment (e.g. 6500 records annually). Currently, budget resources are tight. Two projects were scheduled for implementation in the 05/06 FY that might provide a solution to capturing more detailed information from NOIs received and from pre-site monitoring inspections conducted: development of an Access PUE Inspection Tracking database and purchase of upgraded versions of our RMMS permit and web services applications.

Access PUE Inspection Tracking database: This project was designed to replace an outdated tracking system that no longer functions because it is written in DOS Dataflex, a programming language no longer supportable by our department. It captures information needed to report our pesticide activities to DPR on the Pesticide Regulatory Activities Monthly Report. Additionally, it captures the pesticide associated with any of our pesticide monitoring inspections including our pre-application site monitoring inspections. $10,500 was budgeted for an outside consultant to complete this project by October 31, 2005. The project is complete and operational.

RMMSWin v.3.00 and RMMSWeb v.3.00: Our FY 05/06 budget allowed purchase of two software upgrades to our permit issuance software. Upgrade installation took place in the second half of FY 05/06. The RMMSWeb upgrade ($3,000) added a new feature to our existing web-based pesticide use reporting software application. It allowed submission of NOIs by our web-based users: permit holders and pest control businesses. The RMMSWin v 3.00 upgrade ($4,500) added the ability to import web submitted NOIs into our permit software for printout. However, a module expected for comparison of submitted pesticide use reports against the web submitted NOIs was not delivered. Other RMMS software enhancements took priority. This module may be developed in the future as part of RMMSWin v.4.00. If it is, it may allow local manual data entry into the same NOI database of our NOIs received via phone, fax, recorder, and a county developed web-based NOI application. If designed properly and a clerical resource commitment for data entry can be made, the number of NOIs for specific crop/pesticide combinations could be obtained. This data in conjunction with pre-application site inspections would allow for developing information on the percentage of NOIs inspected by pesticide, crop, and or inspecting

biologist. Thereby, filling a program weakness noted above: the ability to prioritize, target, and measure monitoring inspections by pesticide or site (crop).

Goal or Objective

A commitment to implement measures that ensure a site-monitoring plan that takes into consideration pesticide hazards, local conditions, cropping and fieldwork patterns and handler, permittee, and advisor compliance histories, and review of notices of intent as identified in the summary above.

Pesticides are designated as restricted materials for a variety of reasons: health hazards for handlers, the risk of crop damage from drift, environmental hazards from ground or surface water contamination, etc. Therefore, all restricted materials for which NOIs are received should be monitored at a minimum of 5% in order to evaluate their potential impact from use. However, several materials warrant monitoring at a higher level due to the complexity of associated use conditions and their potential to adversely impact the public. San Joaquin County identifies the fumigants noted in the above Site-Monitoring Plan Development section as requiring a greater than 5% monitoring level. Methyl Bromide applications will be 100% monitored with a pre-application site inspection. As well the following fumigants: potassium sodium, metam sodium, and 1,3-dichloropropene will be monitored at a higher than 5% level as resources allow.

Selecting specific NOIs for monitoring will be based on recognition of the specific hazard associated with the restricted material and identifying if that hazard exists in close proximity to the proposed application. Therefore, knowledge of local conditions is important in choosing which NOI to monitor. For example if an herbicide is designated as a restricted material based on the potential of drift to adjacent sensitive crops proposed applications near at risk sensitive crops would be selected for monitoring. NOIs selected for monitoring of pesticides designated as restricted materials due to high health hazards will be based on proposed application proximity to residential areas as well as adjacent cropping patterns where field worker presence is expected due to the timing of known cultural activities such as weeding, pruning or harvest. As well site-monitoring selection for restricted material use hazardous to aquatic environments will be based on proximity to rivers, streams, creeks and irrigation systems draining to these waterways.

Deliverables

Explain and identify tasks or activities to implement an effective site-monitoring plan:

- Fall training for new and experienced staff on department identified “high” priority situations based on pesticide by crop, environmental conditions, and other criteria identified in the goal and objectives listed above. This includes the goals set for increased monitoring of specific pesticides.
- If contained in RMMSWin v.4.0, evaluate NOI module in conjunction with our Access PUE Inspection Tracking database. Determine if in combination they meet the needs for tracking, prioritizing and measuring NOI pre-application site monitoring goals.

- Dependent on above deliverable, determine if current clerical resources can absorb the time needed to implement changes in our NOI business process to facilitate local data entry and actual data entry of NOIs received via phone, fax, recorder, or county web-based system.

Measure Success

- Success of the fall training will be measured by generating reports from the Access PUE Inspection Tracking database detailing the pesticide/crop pre-site application monitoring inspections conducted by biologists. This information will be compared to our prioritization plan and monitoring goals. After review any needed departmental or biologist adjustments will be made.
- Assessment of the capabilities of software upgrades and clerical resource availability for data entry of all received NOIs will be documented. Provided that the assessment finds this project can be implemented with available resources our site-monitoring plan will be adjusted to incorporate this project into our existing site-monitoring plan.

B. Compliance Monitoring

Comprehensive Inspection Plan

Comprehensive Inspection Plan

The PUE Deputy assures that all PUE staff has a copy of the most current inspection procedures manuals and provides periodic Inspection Procedures (general and form specific) training in conjunction with DPR staff. Supervisors ride along with each PUE biologist during inspection surveillance at least once per year to assure inspections are conducted according to policies and procedures. DPR staff and veteran district biologists ride along with new PUE staff for training. The PUE Deputy and immediate biologist supervisors review all completed inspection forms to verify that the appropriate inspection procedures are followed and give feedback to staff for training purposes. The PUE Deputy also checks our Access database for the applicator's compliance history. The PUE Deputy's review of the pesticide use monitoring inspections conducted this FY by the staff indicate that the inspections are generally complete and have been conducted according to the Inspection Procedures Manual and other DPR policies and procedures.

The choice of inspections conducted is guided in part depending on the type of inspection. A county registration database (e.g. Pest Control Advisor; Agricultural, Structural, or Maintenance Gardener Pest Control Business, and Dealer) is used to print a list of Headquarters and Records inspections that are due within each biologist's geographic district. Application and mix/load inspections are usually randomly conducted by surveillance within each geographic district based on pest management practices expected for specific crops. They may also be targeted based on NOIs received or the need to conduct follow-up inspections to assure pesticide users, with noncompliance(s) noted on previous inspection(s) or previous violation(s), adopt corrective measures. On occasion, however, the biologist may schedule follow-up inspections for those applicators that are difficult to inspect because they infrequently apply pesticides.

Staff targets a 70/30 split between property operators inspected vs. pest control business. Among this split, staff attempts to focus on pesticide use by employees. Application inspections are prioritized by risk, such as the hazard of the material and the sensitivity of the site, or by compliance history. Inspections are also prioritized by the compliance history of the company and whether or not the company has employees. Generally, the inspection form comments and information provide sufficient documentation to facilitate analysis of the inspection record by a person who was not present at the inspection; however, some staff could expand their comments in the remarks section to give a better explanation of noncompliances found during the inspection.

In order to understand the staff hours available for developing a comprehensive inspection monitoring plan and setting inspection targets, a comprehensive 10-year review of staff hours spent in all areas of pesticide use enforcement was conducted in September 2006. Analysis focused on comparing hours spent in field monitoring activities (surveillance, monitoring inspections, and records inspections) versus hours spent in other pesticide use enforcement activities. Along with the number of activity hours, workload indicators were recorded for the number of pesticide permits/ OINs issued, investigations completed, and pesticide inspections conducted. As well, staffing levels were reviewed for each fiscal year to determine their impact on hours spent in pesticide enforcement activities and productivity measured with our workload indicators. Analysis of this data was used to set divisional and individual inspection goals. Our analysis did show that the number of hours spent in surveillance did not correlate very well with the number of field monitoring inspections conducted. Staff hours, spent in surveillance, were broken down by month and compared to 2005 pesticide use report data broken down by month applied. With the exception of May and June there was a strong correlation between a high level of surveillance hours and high pesticide use periods. May and June surveillance hours are impacted by non-pesticide workload issues specifically our cherry export program for Japan. Analysis of this information within Excel allowed the generation of a number of graphs distributed as tools to each District Biologist. Pesticide usage by crop and district applied was used to show the relative number of pesticide applications taking place on a monthly basis for the top ten crops in each district. Displayed as graphs, this information is now distributed to District Biologists to help them target the best months and locations (crops) to conduct general surveillance.

Inspection weaknesses:

a) Staff occasionally did not mark compliance (i.e., Yes, No, and NA were left blank) for an individual inspection criterion. Most of these instances were for criteria that ultimately were marked in compliance (e.g. Yes) (NOTE: The majority of these instances occurred on the Pesticide Use Monitoring form, which has 28 individual inspection criteria per inspection.)
b) Staff occasionally mismarked an individual inspection criterion (e.g. NA rather than Yes, Yes rather than NA, No rather than NA). Most of these instances gave credit for following criteria not applicable to the pesticide activity monitored and show that the regulated community is providing safety equipment beyond that required by regulation.

c) In the Reports section, several inspections did not note that follow-up was required and other boxes were left blank, including the noncompliance correction date.
d) Occasionally, the comments section does not contain enough information to document noncompliances found during the inspection.
e) Time spent in surveillance doesn't correlate well with successfully finding pesticide users and completing monitoring inspection forms.

Some of these weaknesses (a-d) continue to be improved by close adherence to DPR policies and procedures and by additional criteria specific training (item b). Close adherence to DPR policies and procedures was stressed at the Inspection Procedures training attended by CAC staff in June 2003. Additionally, missing information or mismarked criteria are caught during the inspection form review process by supervisors and the PUE Deputy. All forms requiring changes are returned to the district biologist for correction and become discussions points for improving our inspection process. Any changes that result in additional noncompliances are communicated to the responsible party via phone call and a revised fax copy of the inspection form is sent to them. The weakness described in item e) is being addressed with new graphic tools illustrating the best months and crops within which to target surveillance hours. Unfortunately, the pesticide use reports can't be used to extract the best time of day to conduct surveillance.

Inspection strengths:

- Staff is licensed and most have many years of experience.
- Staff has access to Enforcement letters and review Notices of Intent prior to doing surveillance.
- Staff is generally very knowledgeable of pesticide related laws and regulations, as well as DPR policies.
- Most staff has a copy of the laws and regulations and the Inspection Procedures Manual in their vehicle when they do inspections.
- Staff has enough and appropriate inspection forms in their vehicle.
- Staff interviews appropriate personnel during inspections.
- Staff is conscientious about marking noncompliances as they are first observed in the field.

Goal or Objective

A commitment to implement a comprehensive compliance inspection plan, based on the findings of the annual program evaluation, to ensure pesticide uses are adequately monitored throughout the county.

Deliverables

- Work with our Enforcement Branch Liaison to meet CDPR oversight monitoring goals established for San Joaquin County;
- Provide fall training to staff on pesticide inspection form completion focusing on common mistakes on form completion and misunderstood criteria as found during routine form review by supervisory staff;

- Assign district biologists inspection goals that lead to the completion of the following types and numbers of pesticide use monitoring inspections: 500 application, 200 mix/load, 40 field fumigation, 20 commodity fumigation, and 75 field worker safety;
- Track 30 hour dawn patrol commitment by district biologist to assure this goal is met;
- Provide fall training to staff on prioritizing surveillance, for heavy pesticide use periods by crop, to target inspections that monitor use of high-risk pesticides, employee use, and completion of follow-ups. At the same time maintain a 70/30 split on the number of property operators vs. pest control businesses inspected.
- Management provides improved periodic updates to staff on needed follow-up inspections, numbers of inspections completed, and dawn patrol hours worked. Where individual goals are not being met supervisors work with staff to identify roadblocks to achieving these goals. Evaluate any identified roadblocks including resource issues and determine if adjustments to the monitoring plan can be made.

Measure Success

- The county will continue to track hours worked in pesticide use monitoring (excluding pre-site applications) and pesticide surveillance for the current fiscal year and compare them to hours worked in previous years to determine if full staffing and resource redirection positively impacted the amount of time spent in these areas.
- Numbers of inspections completed and dawn patrol hours worked will be tracked and compared to previous fiscal years.
- The Access PUE Inspection Tracking database will be used to generate a report on follow-up inspection success and compared to previous FY efforts.

Investigation Response and Reporting Improvement

Investigation Response and Reporting

All staff that conduct investigations hold licenses in Investigation and Environmental Monitoring. Most attended the Pesticide Episode Investigation Training in the spring of 2002, and some attended Investigative Techniques and Sampling Review Training in October 2002. The PUE staff has also been to other investigation training presented by DPR in prior years and is qualified to perform investigations.

Staff responds to complaints and incidents that may be related to pesticides. When someone files a complaint or the county is informed of an incident that may be pesticide-related, a complaint form is filled out and a tracking number is assigned. The case is entered into a tracking database and referred for investigation to the biologist covering the district in which the incident occurred. The biologist generally contacts the complainant or victim within 24-48 hours. Sometimes the complaint is determined to be more of a question than a complaint, such as what pesticide is being used on a neighboring field, and the determination is documented on the complaint form. True complaints or incidents are investigated and documented in a pesticide episode investigation report. When the investigations are completed, the results are usually forwarded to the complainant.

The county initiates priority investigations within two working days of the referral, generally within 24 hours. For priority investigations preliminary information is provided to DPR staff

within 15 days of a priority referral or designation and keeps DPR abreast of the status of the investigation. No priority investigations were initiated in fiscal year 05/06.

The county investigates pesticide related complaints and incidents by following the procedures in the DPR Investigative Techniques Manual, Investigative Sampling Manual, and Pesticide Episode Investigation Procedures Manual (PEIPM). Investigations are conducted via phone calls, in-person interviews, site visits, and sampling as deemed appropriate for each case. The PUE Deputy contacts the county's senior pesticide use specialist liaison at the DPR Northern Regional Office for approval of investigative samples and requests guidance when needed.

To prevent retaliation against employees during investigation interviews, staff meets with employees separately from their employer. When bilingual translation is required, the inspecting biologist gets assistance from a bilingual employee of the Commissioner's office or an English speaking relative or coworker of the employee. These steps are consistent with 3 CCR section 6141 and the PEIPM.

Complainants are referred to an appropriate agency (e.g., the Federal Aviation Administration) if the complaint is not under the Commissioner's jurisdiction. We work with other agencies to complete investigations, generally on a case-by-case voluntary basis. Such other agencies include the Department of Fish and Game (DFG), the County Environmental Health Department and Office of Emergency Services (OES), and the local fire departments. The PUE Deputy also attends monthly meetings of the San Joaquin County Toxics Strike Force, which includes OES, Environmental Health, Stockton and County Fire Departments, Sheriff Office, the District Attorney, Department of Toxic Substances Control, State Water Resources Control Board, and DFG.

Prior to submission to DPR, the supervising Deputy, the PUE Deputy, the Assistant Commissioner, and the Commissioner review investigations. The investigations are thorough and complete, with appropriate witnesses contacted and pesticides identified by brand name and U.S. Environmental Protection Agency (U.S. EPA) registration number, when they could be determined. The investigation of several drift complaints involved taking residue samples, which were collected in accordance with sampling procedures. The investigation reports identified pesticide violations and the documentation was sufficient to support compliance or enforcement action as warranted. An investigation tracking system is in place to assure that investigations are completed within DPR's 120-day timeframe.

This fiscal year the county completed the following investigations: 2 - Report of Loss, 36 - Illnesses, and 46 - Other Investigations. The Other Investigations include complaints of environmental effects, health effects where medical attention was not sought, and crop damage complaints where a report of loss was not submitted. Investigation completion is pending on the following investigations received during the 05/06 fiscal year: 6 - Other Investigations.

<u>Investigation Weaknesses</u>

- None noted

Investigation Strengths

- Staff is qualified and well trained to successfully conduct investigations meeting county and DPR expectations.
- Violations found are well documented supporting enforcement action if warranted by the statewide enforcement guidelines.
- Internal tracking database used to track investigation assignment and progress.

Goal or Objective

A commitment to implement an investigation response plan to ensure all investigations are completed in a timely manner with accurate and supportive information.

Deliverables

- Timely initiation and completion of all non-priority investigations;
- Timely priority investigation initiation and reporting;
- Thorough report presentation.
- Thorough report review by management.
- Internal tracking database for illness investigation assignment and progress monitoring.

Measure Success

- Generation of monthly progress reports for tracking investigation completion and year-end analysis for timeliness of investigation completion.
- Monitor if DPR's Worker Health and Safety Branch returns any illness investigations for incompleteness.

C. Enforcement Response

Enforcement Response Evaluation

A review of inspections, investigations, and enforcement and compliance actions for this fiscal year indicate that the cited sections accurately reflect the violations. When violations are identified, the most appropriate action is determined by reviewing the violator's history and following the decision trees in the Enforcement Guidelines. When called for in the Enforcement Guidelines, a decision report is completed when it is determined that due to circumstances of the incident, a civil penalty is not appropriate. The Enforcement Guidelines were revised and renamed the Enforcement Response Policy in August 2005. Newly adopted changes contained in the Pesticide Enforcement Response Policy were followed for pesticide noncompliances found after its effective date.

When staff identifies violations, they issue either an inspection form with the noncompliance marked or a violation notice. Sometimes a warning letter will be issued for violations made by non-permittees such as homeowners, or when a fuller description of the violation is appropriate. This fiscal year, several Access PUE databases replaced older tools used to track noncompliances documented on monitoring inspection forms, notices of violation and warning letters. These databases facilitate electronically tracking two-year histories for violators of pesticide laws and regulations. They also track a two-year history

for repeat violations as defined in the Enforcement Response Policy. A two-year history is also kept in the permittee/business files. Staff reviews the history of the violator in the database when they find noncompliances to determine if further action is appropriate. Querying issued notices of violations, noncompliances noted on inspection forms, and warning letters provided an entire overall compliance history for individuals or businesses. The decision whether enforcement action is appropriate to take and the appropriate enforcement option to apply is determined after reviewing compliance history and the Enforcement Response Policy, and then discussing the incident and history between the Deputy supervising the district in which the incident occurred, the PUE Deputy, the Assistant Commissioner and the Commissioner.

Staff's documentation of violations is sufficient to support the compliance and enforcement actions taken. Documentation for noncompliances noted on inspection forms is on the inspection form; for warning letters and violation notices it is usually in an investigative report. The PUE Deputy discusses with the inspecting Biologist, the supervising Deputy, and the Senior Pesticide Use Specialist the evidence and documentation collected during inspections and investigations to determine whether it is sufficient to support an enforcement action. Enforcement actions taken are well detailed.

The Notices of Proposed Action (NOPA) issued by the county advise respondents of the alleged violations, the proposed fine level, and their right for an opportunity to be heard. Fine amounts are categorized in a manner consistent with the fine guidelines in 3CCR section 6130. Based on incident date, fine amounts reflect guideline changes due to a revision of section 6130 allowing for new maximum fine amounts and fine ranges. No structural actions were taken this year using Title 16, California Code of Regulations section 1922.

A Pesticide Enforcement/Compliance Action Summary form is submitted to CDPR for each enforcement action initiated and a copy of the action for each compliance action initiated. The forms and actions are complete and accurate.

Implementation of the newly adopted Enforcement Response Policy resulted in increased numbers of enforcement actions taken. A total of 52 actions were taken in fiscal year 05/06. If only the old Enforcement Guidelines were followed 13 actions would have been taken. The new policy resulted in an additional 39 actions. There was a corresponding increase in the number of hearings requested. Eight hearings were conducted. As a result staff resources were redirected to process the increased workload. Our Urban Biologist took over the responsibility of preparing Notice of Proposed Actions (NOPAs) for enforcement actions resulting from noncompliances noted on monitoring inspections forms. The Pesticide Use Enforcement Deputy reviewed these NOPAs, prepared NOPAs resulting from violations found during investigations, and acted as county advocate at hearings. Other San Joaquin County Deputy Commissioners acted as hearing officers. Staff hours spent on enforcement actions increased from 48.2 in FY 04/05 to 534.4 in FY 05/06.

To offset Urban Biologist time spent on NOPA preparation, antimicrobial illness investigations and structural inspection responsibilities were split on a north south line drawn

through Stockton. Northern workload was assigned to Lodi's District F and southern workload was assigned to Simms Station's District A.

Enforcement Response Weaknesses

- None noted.

Enforcement Response Strengths

- Knowledgeable staff identifies violations meeting Enforcement Response Policy triggers for initiating enforcement actions.
- Violation documentation supports taking appropriate enforcement action.
- NOPAs provide respondents with due process by describing alleged violations, the proposed fine level, and their right for an opportunity to be heard.

Goal or Objective

A commitment to follow the statewide Enforcement Response Policy associated with violations of pesticide laws and regulations ensuring enforcement actions are rendered fairly, consistently, and swiftly.

Deliverables

- Continue to implement changes to the Enforcement Guidelines contained in the new Enforcement Response Policy.
- During enforcement response discussions consider all appropriate enforcement options and use the option most likely to achieve future compliance by the respondent.
- Provide an Enforcement Response Policy Update to the regulated community during grower meetings and PAPA continuing education seminars.

Measure Success

- Generate periodic and year-end reports that detail enforcement responses for analysis of our stated goals.

D. Educational Outreach

Educational Outreach Evaluation

The county conducts educational outreach to provide opportunities for the regulated community to become knowledgeable in pesticide laws and regulations and meet continuing education (CE) requirements for renewal of county issued private applicator certificates and DPR issued licenses. Additionally, the county participates in and organizes employee handler general pesticide safety training. Outreach is in the form of both lecture style seminars and hands-on workshops.

Growers interested in using restricted pesticides must hold as a minimum a county issued private applicator certificate. These certificates are renewed every three years by earning 6

hours of CE or taking a written exam. The county is committed to annually provide growers, desiring to renew certificates by the CE method, 2 hour educational sessions. These sessions are lecture style seminars designed to educate growers in regulatory changes pertinent to San Joaquin County and review employee worker safety issues. 12 sessions distributed throughout the county are offered in November and December of each year. This time frame best meets county resource availability issues (it doesn't conflict with permit issuance or impact pesticide use monitoring since fewer applications take place at this time) and fits a normal slow period for growers and their farming activities. A committee forms each year consisting of three District Biologists (one from each division) and the PUE Deputy. The committee decides on training topics and designs a PowerPoint program for presentation to the growers. Approximately 1300 growers and 100 licensees attend these sessions. Grower feedback is positive on both session presentation and content. Growers want to learn about pesticide issues from the local experts.

Employee pesticide handlers learn better in a hands-on workshop setting rather than a lecture style seminar. The county participates in the Lodi Farm Safety Day and four county organized workshops. These workshops are based on or modeled after the UC Davis Train-The-Trainer Program and are given in Spanish and English. Worker safety requirements with low compliance, as seen in use monitoring inspections, are targeted topics at these workshops. Each workshop serves a different geographic area within the county. Annually, 450 employees attend the Lodi workshop, which is organized by a grower member committee of Lodi's Chamber of Commerce. County organized workshops now take place in Linden, the Delta, and Ripon. This year attendance was 450, 125, and 150, respectively. Usually 80% of the trained employees are Spanish speaking. This FY year was Ripon's second year and the Delta's third year. All staff holding a Pesticide Use Regulation License periodically participates in these sessions. Our workshops originated in Linden and have been offered more than ten years there. These workshops enjoy enthusiastic grower support.

Our other annual training commitments include speaking at mandatory training held at Delta College in February on pesticide safety for renewal of Farm Labor Contractor licenses and the Stockton PAPA seminar. Periodically, training sponsors request county speakers for other training sessions and we meet those requests as resources allow.

<u>Educational Outreach Weaknesses</u>

- Resource constraints don't allow the county to meet the grower demand for expansion of our employee hands-on workshops.

<u>Educational Outreach Strengths</u>

- Training is designed to target San Joaquin County pesticide regulatory issues.
- The local experts provide local training.
- Growers holding private applicator certificates can easily renew certificates via the CE method.
- Employee training is delivered in a style (hands-on) best suited for employees.
- Hands-on training is offered in Spanish and English.

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Goal or Objective

Our commitment is to continue to offer and improve the county's educational outreach program and deliver information on pesticide laws and regulations pertinent to the regulated community in San Joaquin County.

Deliverables

- 12 annual grower meetings
- 4 employee pesticide training hands-on workshops
- 1 Stockton PAPA seminar
- 1 Farm Labor Contractor License renewal seminar
- Additional seminars as resources allow.

Measure Success

- Maintain statistics on training attendance.